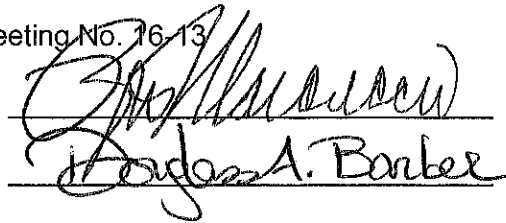


Approved: Meeting No. 16-13

Attest:



Douglas A. Barber

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND

January 14, 2013  
Meeting No. 02-13  
7:00 p.m.

**Present:**

Mayor Phyllis Marcuccio, Councilmember John F. Hall, Jr., Councilmember Tom Moore, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala

**Staff Present:**

City Manager Barbara Matthews, City Clerk/Treasurer Doug Barber, and City Attorney Debra Daniel.

**1. Convene**

The Mayor and Council convened in a regular meeting at 7:01 p.m. on Monday, January 14, 2013, in City Hall, 111 Maryland Avenue, Rockville, Maryland.

**2. Pledge of Allegiance**

Mayor Marcuccio led the Pledge of Allegiance.

**3. Agenda Review**

City Clerk Barber advised that there were no changes to the agenda.

**4. City Manager's Report**

City Manager Matthews noted that the City of Rockville would be closed on Monday, January 21, 2013 in observance of the Martin Luther King Jr. Holiday.

**5. Appointments/Reappointments and Announcements of Vacancies**

Mayor Marcuccio announced the re-appointment of Kenneth Letcher as a member of the Cultural Arts Commission until January 1, 2016.

**Motion:** To re-appoint Kenneth Letcher to the Cultural Arts Commission as a member until January 1, 2016.

Moved by Councilmember Hall, seconded by Councilmember Newton, and unanimously approved.

Mayor Marcuccio announced the appointment of Arlene Joyce Lipman to the Human Services Advisory Commission as a member (Consumer Representative) until January 1, 2016.

**Motion:** To appoint Arlene Joyce Lipman to the Human Services Advisory Commission as a member (Consumer Representative) until January 1, 2016.

Moved by Councilmember Pierzchala seconded by Councilmember Moore, and unanimously approved.

Mayor Marcuccio announced the re-appointment of Nicholas Ferris as a member of the Traffic and Transportation Commission until January 1, 2016.

**Motion:** To re-appoint Nicholas Ferris to the Traffic and Transportation Commission as a member until January 1, 2016.

Moved by Councilmember Newton, seconded by Councilmember Pierzchala, and unanimously approved.

Mayor Marcuccio announced the re-appointment of Waleed Ovase as a member of the Traffic and Transportation Commission until January 1, 2016.

**Motion:** To re-appoint Waleed Ovase to the Traffic and Transportation Commission as a member until January 1, 2016.

Moved by Councilmember Newton, seconded by Councilmember Pierzchala, and unanimously approved.

Mayor Marcuccio announced the re-appointment of John Telesco as a member of the Traffic and Transportation Commission until January 1, 2016.

**Motion:** To re-appoint John Telesco to the Traffic and Transportation Commission as a member until January 1, 2016.

Moved by Councilmember Hall, seconded by Councilmember Pierzchala, and unanimously approved.

Mayor Marcuccio read the vacancies for the following Boards and Commissions: Cultural Arts Commission; Human Rights Commission; Planning Commission; Rockville Scholarship Foundation; and Sign Review Board. Mayor Marcuccio closed by encouraging residents to visit the City's website for information on how to apply.

## **6. Chamber of Commerce Update**

Mr. Cliff Veirs with the Rockville Chambers of Commerce provided a brief update on the work and upcoming events being coordinated by the Chamber as follows:

- Taste of Rockville – The Chamber has partnered with the City of Rockville and Community Ministries for the event and they are currently recruiting restaurants and sponsors;
- Rockville Business Academy – The Chamber has partnered with the City of Rockville and REDI (Rockville Economic Development Inc.) with the event being held on the following dates: February 6, February 13 and February 20. The three scheduled sessions will focus on the demographics of Rockville, "How to do Business with the City of Rockville", and an overview of the City Departments within the City.
- Rockville Invitational – The Chamber has scheduled the event to be held at the VisArts Center scheduled for Thursday, April 25, 2013;
- Rockville Rewards Program Update – The Chamber continues to raise money for non-profits; and bring business to the City of Rockville;
- Bike Rockville Event – The Chamber has partnered with Community Ministries, Bike Maryland Friendly, and the Rockville Bike Advisory Committee with a kick-off workshop scheduled for April 10, 2013, geared towards helping businesses becoming bike friendly.

## **7. Citizens' Forum**

<i>Citizen</i>	<i>Issue</i>
Jacques Gelin	Stonestreet Pedestrian Bridge
Noreen Bryan	Maryland Avenue Sidewalk Project
Joseph Jordan	Rockville Housing Enterprises (RHE) Purchase of Fireside Park Apartments
Judy Miller	Ethics Ordinance
Christina Ginsberg	Ethics Ordinance and Campaign Fund Reports

## **8. Mayor and Council's Response to Citizens' Forum and Announcement.**

Mayor Marcuccio	Thanked Ms. Bryan for her comments; she will look into the comments provided by Mr. Jordan
Councilmember Moore	Thanked all who came to the meeting; he noted Ms. Ginsberg's comments regarding the Ethics Ordinance
Councilmember Pierzchala	Thanked Councilmember Newton for her work on the Maryland Avenue Sidewalk Project; he noted that the RHE project would be coming back to the Mayor and Council.

Councilmember Hall

He noted that the entire Council is working together on Rockville's own Ethics Ordinance

## **9. Mayor and Council's Reports**

Councilmember Pierzchala reported that he participated in a Sign Tour around the new construction site in front of Regal Row.

Councilmember Newton reported that she attended the Maryland Municipal League's Legislative Committee meeting Wednesday, January 9, 2013, as well as the opening of Maryland's 2013 legislative session in Annapolis, Maryland.

## **10. Public Hearing – Stonestreet Pedestrian Bridge**

The Mayor and Council convened in a Public Hearing on the Stonestreet Pedestrian Bridge at 7:38 p.m. Mayor Marcuccio verified with the City Clerk that the public hearing had been properly advertised.

Project Manager Ilene Lish provided the Mayor and Council with the public hearing staff report. Ms. Lish noted the purpose of the public hearing is to obtain community input as to whether the Stonestreet Pedestrian Bridge project should move forward to construction or funding should be reallocated for other purposes. Ms. Lish provided a PowerPoint presentation covering the history of the Stonestreet Bridge.

Ms. Lish closed by responding to questions of clarification posed by the Mayor and Council on the Stonestreet Pedestrian Bridge project.

The Mayor and Council heard testimony from the following speakers:

- (1) Chas Hausheer, President, East Rockville Civic Association
- (2) Julie Palakovich Carr
- (3) Ted Meadows
- (4) Marilyn Al-Mansoor
- (5) Yesmine Lluveras
- (6) Ellen and Stephen Exelbert
- (7) Christine Dudley
- (8) Theresa Durham
- (9) Doug Reimel
- (10) Brigitta Mullican
- (11) Jan Wilson

The complete testimony of the speakers can be found in the official public hearing file of the Mayor and Council in the City Clerk's Office.

Mayor Marcuccio indicated that the public record would remain open until Monday, January 28, 2013, at 5:00 p.m. (as recommended).

There being no other persons wishing to speak, the Mayor and Council closed the public hearing at 8:24 p.m.

**11. Public Hearing – Zoning Ordinance Text Amendment (TXT2013-00235) – To Revise Section 25.07.02 of the Zoning Ordinance to Amend the Procedures for the Filing and Processing of Site Plan Applications in the Town Center Performance District. It would also Revise Section 25.07.03 to Require Notice of the Filing of Any Level 2 Site Plan or Project Plan Application with all of the City's Civic Associations and Homeowners Associations; Mayor and Council of Rockville, Applicant**

The Mayor and Council convened in Public Hearing on the Zoning Ordinance Text Amendment TXT2013-00235 at 8:30 p.m. Mayor Marcuccio verified with the City Clerk that the public hearing had been properly advertised.

Mr. Jim Wasilak provided the Mayor and Council with the staff report for the public hearing. Mr. Wasilak provided maps for clarification. The proposed text amendments would revise the application procedures for site plans within the Town Center Performance District to require all Level 1 Site Plan applications to be reviewed as a Level 2 Site Plan, thereby requiring Planning Commission action. It would also require notice of any Level 2 Site Plan or Project Plan application be provided to all civic and homeowners associations. Mr. Wasilak closed by responding to questions of clarification posed by the Mayor and Council on the proposed text amendment.

The Mayor and Council heard testimony from the following speakers:

- (1) Peter Witzler
- (2) Noreen Bryan, President, West End Civic Association
- (3) Christina Ginsburg, President, Twinbrook Civic Association

The complete testimony of the speakers can be found in the official public hearing file of the Mayor and Council in the City Clerk's Office.

Mayor Marcuccio indicated that the public record would remain open until Friday, January 25, 2013, at 5:00 p.m. (as recommended).

There being no other persons wishing to speak, the Mayor and Council closed the public hearing at 8:50 p.m.

**12. Public Hearing – Creation and Duties of a Financial Advisory Board**

The Mayor and Council convened in Public Hearing on the Creation and Duties of a Financial Advisory Board at 8:50 p.m. Mayor Marcuccio verified with the City Clerk that the public hearing had been properly advertised.

City Manager Matthews provided the Mayor and Council with opening comments on the public hearing.

The Mayor and Council heard testimony from the following speakers:

- (1) Roald Schrack
- (2) Cathy Berman
- (3) Brigitta Mullican
- (4) Joseph Jordan

- (5) Doug Reimel
- (6) Laura Berthiaume
- (7) Donald Hadley

The complete testimony of the speakers can be found in the official public hearing file of the Mayor and Council in the City Clerk's Office.

Mayor Marcuccio indicated that the public record would remain open until Friday, January 25, 2013, at 5:00 p.m. (as recommended).

There being no other persons wishing to speak, the Mayor and Council closed the public hearing at 9:15 p.m.

**Note for the Record:** The Mayor and Council took a brief recess at 9:15 p.m. The Mayor and Council reconvened the meeting at 9:25 p.m.

### **13. Consent Agenda**

**Note for the Record:** The Mayor and Council agreed to handle each of the consent agenda items separately.

#### **Consent Agenda Item 13A – Approval to Utilize and Make Multiple Awards off of Various New State of Maryland, Department of Information Technology Contracts, as Needs Arise, up to an Aggregate Amount not to Exceed \$500,000 per Fiscal Year Through June 20, 2028**

City Manager Matthews and Chief Information Officer/IT Director Cannon responded to questions of clarification posed by the Mayor and Council on the item.

**Motion:** To authorize approval to utilize and make multiple awards off of various new State of Maryland, Department of Information Technology contracts, as needs arise, up to an aggregate amount not to exceed \$500,000 per fiscal year through June 20, 2028.

Moved by Councilmember Hall, seconded by Councilmember Newton, and unanimously approved.

#### **Consent Agenda Item 13B – Introduction of an Ordinance to Amend Chapter 4 of the Rockville City Code Incorporation of Works of Art in Public Architecture**

The Mayor and Council discussed the issue at length. Mr. John Moser, Chair, Cultural Arts Commission, addressed the Mayor and Council and requested they allow the proposed ordinance to go back to the Cultural Arts Commission for further discussion. After additional discussion, the Mayor and Council agreed to have the proposed ordinance return to the Commission for additional review, and then to have it come back to the Mayor and Council at a future meeting.

### **Consent Agenda Item 13 C – Approval of Minutes**

May 21, 2012	Meeting No. 20-12
June 11, 2012	Meeting No. 22-12
June 18, 2012	Meeting No. 23-12
July 9, 2012	Meeting No. 24-12
July 16, 2012	Meeting No. 25-12
July 23, 2012	Meeting No. 26-12
July 30, 2012	Meeting No. 27-12
August 6, 2012	Meeting No. 28-12

Moved by Councilmember Newton, seconded by Councilmember Hall, and unanimously approved.

### **14. Presentation – Charter Review Commission Final Report**

Charter Review Commission, Chair Steve VanGrack, formally presented to the Mayor and Council the 2012 Charter Review Commission Final Report. Chair VanGrack introduced the commissioners present. Mr. VanGrack provided a brief overview of the process the Charter Review Commission followed in preparation to produce the Commission's final report. Mr. VanGrack noted the following mechanisms used by the Commission to obtain/receive input on the Commission's charge given by the Mayor and Council, and as outlined in Resolution 6-12, establishing the Commission. The Commission received input from former City officials, citizens, and other municipal elected/staff officials. The Commission presented the Mayor and Council with the following recommendations and asked for the Mayor and Council to take them to the people of the City:

- Term of Office – The length of terms of office should be extended from two to four years
- Schedule of Elections – Elections should be held every four years to coincide with the Federal Presidential Elections
- Councilmembers – The number of Councilmembers should be increased from four to six

Chair VanGrack requested that the Mayor and Council read the Commission report and take the questions to the people. Mr. VanGrack responded to questions of clarification posed by the Mayor and Council on the Charter Review Commission's final report.

The Mayor and Council directed the staff to work with the Charter Review Commission to bring back to the Mayor and Council proposed advisory referendum questions from the Commission's recommendations.

**15. Adoption of Ordinance to Amend Chapter 17 of the Rockville City Code, Entitled "Purchasing" to Amend and Add Definitions of "Local Business," and "Tie Bids," and to Amend Provisions on Award of Tie Bids**

Director of Finance Cohen introduced the item and gave some background.

**Motion:** To amend the proposed ordinance with the following modifications:

Sec. 17-16 Definitions. Deleting the words "That is a substantial component of the goods or services being offered to the City"; and .

Sec. 17-16 Definitions. Adding the following language "or their equivalent"

Section 17-16. Definition to read as follows:

Local business means a business enterprise, including but not limited to a sole proprietorship, partnership, corporation, or limited liability company which (i) has a physical business address located within the corporate limits of the City of Rockville from which the vendor operates or performs business on a day-to-day basis; and (ii) for the most recent tax year, has paid any real property or personal property tax due to the City. Post Office Boxes or their equivalent shall not be used for the purpose of establishing a physical address within the City.

Moved by Councilmember Hall, seconded by Councilmember Newton, and unanimously approved.

**Motion:** To adopt the Ordinance to amended Chapter 17 of the Rockville City Code.

Moved by Councilmember Pierzchala, seconded by Councilmember Newton, and unanimously approved.

**16. Discussion and Instructions to Staff on an Amendment to the Rockville Comprehensive Master Plan and Rockville's Amendment to the Montgomery County Heritage Area Management Plan**

Historic Preservation Planner, Robin Ziek gave the staff report. Ms. Ziek addressed one suggested change that was received during the public hearing process regarding the proposed boundaries for the proposed Heritage Area Management Plan. Ms. Ziek highlighted the boundary area that was not proposed in example (A) which leaves out a small part of the Twinbrook Neighborhood and the Twinbrook Metro Center. Ms. Ziek has been in discussion with the State on the issue in example (B), as staff recommends including the small part of Twinbrook neighborhood and the Twinbrook Metro Center. The Mayor and Council discussed the issue at length. City Attorney Daniel advised the Mayor and Council that if the proposed change was deemed a substantive change under State Law it would have to go back to the Planning Commission for their review. Ms. Ziek advised the Mayor and Council and the City Attorney that this was only a slight boundary change and no narrative was needed to be added to the report. The consensus of the Mayor and Council was to move forward, as the proposed change was not deemed substantive. Councilmember Pierzchala was not in support, as he deemed the change substantive. The Mayor and Council directed Ms. Ziek to move forward as proposed in attachment (B) and to return to the Mayor and Council on January 28, 2013, with the prepared Ordinances.



**17. Discussion – City of Gaithersburg’s Request that the City of Rockville Support Proposed Amendments to the Maryland Public Ethics Law**

City Attorney Daniel provided the staff report on the item. City Attorney Daniel requested that the Mayor and Council review the four key points in the proposed legislation (Senate Bill 948) provided by Senator Jamie Raskin.

City Attorney Daniel noted the four changes in the proposed amendment that would narrow the scope of what municipal officials would have to disclose in the financial disclosure statements:

1. Respect to Real Property Interest – Municipal Elected Officials would only have to disclose Real Property Interests that are located in the County in which the Municipal Corporation is located or anywhere if acquired from or in conjunction with a entity doing business with or regulated by the City;
2. Respect to Other Interests – Municipal Elected Officials would only have to disclose those interests in corporations or partnerships if those corporations or partnerships do business with or are regulated by the City;
3. Respect to Indebtedness – Municipal Elected Officials would only have to disclose indebtedness to an entity doing business with or regulated by the City.
4. Respect to Employment of Family Members - Municipal Elected Officials would only have to disclose employment by the City or receipt of income an entity doing business with or regulated by the City;

Ms. Daniel advised the Mayor and Council of the City of Gaithersburg’s request to have the City of Rockville join them and other area municipalities in their efforts of seeking support for the proposed legislation.

Ms. Daniel introduced Ms. Lynn Board, the City Attorney for the City of Gaithersburg, who was present to respond to questions of clarification given by the Mayor and Council as they discussed the item. Ms. Board addressed the Mayor and Council and provided a brief history of the proposed bill and what is being requested of the City of Rockville, at this time. Ms. Board noted that though she is the City Attorney for the City of Gaithersburg, the proposal is not from the City of Gaithersburg.

The Mayor and Council discussed the issue at length with City Attorney Daniel and Ms. Board responding to questions posed by the Mayor and Council on the proposed bill.

In discussion, Councilmembers discussed receiving comparisons on what the current State Ethics Law states compared to what is being proposed by Senator Raskin’s bill, and to what law currently exists in the City of Rockville related to financial disclosure.

**18. Review and Comment – Additional Amendments to Proposed Amendments to Chapter 16 Ethics Ordinance to Include Changes to the Language Requested During Discussion and Instructions on November 19, 2012**

City Attorney Daniel provided the staff report on the item. City Attorney Daniel recommended sending the City of Rockville proposed draft recommendations on Chapter 16 Ethics Law to the State Ethics Board for their review and comment. The proposed recommendation would include

the requested changes made by the Mayor and Council at the November 19, 2012, meeting. City Attorney Daniel noted the process the City is following is the Mayor and Council's adoption of a revised Ethics Ordinance to comply with the State's Ethics Law. The Mayor and Council discussed the issue at length. City Attorney Daniel provided clarification on questions posed by the Mayor and Council on the proposed changes for Chapter 16 (Ethics) of the Rockville City Code.

**Motion:** To instruct the City Attorney to send the City of Rockville's proposed Ethics Ordinance to the State Ethics Commission for their review and comment.

Moved by Councilmember Moore, seconded by Councilmember Pierzchala, and passed with Councilmembers Moore, Pierzchala, and Hall voting for and Mayor Marcuccio and Councilmember Newton voting against. The motion carried 3-2.

#### **19. Review and Comment Regarding Mayor and Council Action Report**

There were no comments given on the item.

#### **20. Review and Comment Regarding Future Agendas**

The Mayor and Council reviewed and discussed the proposed future agendas. The Mayor and Council requested that Rockville Housing Enterprises (RHE) provide an update to the Mayor and Council on their purchase of the Fireside Park Apartments. Staff will follow up and provide the Mayor and Council with a date.

The Mayor and Council agreed to hold an open session on January 28, 2013, prior to the regularly scheduled meeting to meet with the business owners of Regal Row to discuss parking concerns. Staff will notice the meeting.

#### **21. Old/New Business**

Councilmember Newton requested that the Mayor and Council have a discussion about Lotus Notes Issues at a future meeting.

#### **22. Adjournment**

There being no further business, the Mayor and Council adjourned at 12:32 a.m.

**Motion:** To adjourn.

Moved by Councilmember Hall, seconded by Councilmember Pierzchala, and unanimously approved.